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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,000	06/26/2003	Steven Reynolds	2050.123US1	8368

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SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402-0938

EXAMINER
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INGVOLDSTAD, BENNETT

ART UNIT	PAPER NUMBER
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2427

NOTIFICATION DATE	DELIVERY MODE
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02/24/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@slwip.com  
request@slwip.com

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/609,000	<b>Applicant(s)</b> REYNOLDS ET AL.	
	<b>Examiner</b> Bennett Ingvaldstad	<b>Art Unit</b> 2427	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-31, 33 and 34.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Scott Beliveau/  
 Supervisory Patent Examiner, Art Unit 2427

/Bennett Ingvaldstad/  
 Examiner, Art Unit 2427

Continuation of 3. NOTE: The proposed amendments introduce new issues and require a further search. The proposed amendments do not merely cancel claims or comply with any requirement of form expressly set forth in a previous Office action, nor do they merely present the claims in better form for condition on appeal, nor is there provided a showing of good and sufficient reasons why the amendments are necessary and were not earlier presented..

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments against the rejections as applied to the previously presented claims are not found persuasive.

Applicant argues that Cheok in view of Shahine does not meet the limitation requiring that images are displayed in accordance with a presentation description comprising a set of instructions that define a manner for combining the images. Applicant attempts to distinguish Shahine in particular from the claims, arguing that Shahine combines images in a user-specified manner rather than using a presentation description. Remarks at 12. First, Shahine may refer to user-specified instructions for combining images, or to predetermined instructions for combining images. Col. 8, lines 29-31. Thus Shahine's instructions are not necessarily user-specified. Second, nothing in the claims precludes the presentation description from containing user-specified instructions. Thus, even Shahine's user-specified instructions are still considered a presentation description because they describe how the images are combined and presented.

Applicant argues that Cheok does not describe receiving two video signals, specifically that Cheok's first information and second information are part of the same signal. Remarks at 13. However, Applicant's claims do not define how to distinguish one signal from another. Thus, the examiner contends that a first information and a second information are different signals because they contain different information.

Applicant further argues that Cheok's first and second information are not video signals, arguing that an MPEG-4 object is not necessarily a video signal. Remarks at 13. MPEG-4 objects may be information such as graphics or text. Cheok, col.3, line 55-57. These objects are used for display as part of an MPEG-4 video. Cheok, Fig. 4. Thus, they are video objects and the signal containing them is a video signal.

Therefore, Applicant's arguments are not persuasive, and the previous rejections are maintained..